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Procedures and criteria for the extension of an approved plan of work for exploration pursuant to section 1, paragraph 9, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982

Proposed by the Legal and Technical Commission

I. Form and content of application for extension

1. The holder of a contract for exploration (hereinafter referred to as "the Contractor") may submit an application for extension of such contract in accordance with the procedures set out below. Contractors may apply for such extensions for periods of not more than five years each.

2. Each application for extension of a contract for exploration shall be in writing, addressed to the Secretary-General of the International Seabed Authority, and shall contain the information set out in annex I to the present document. Each such application shall be submitted no later than six months before the expiration of the contract in respect of which the application is made.

3. Unless otherwise indicated by the sponsoring State or States at the time of making the application for an extension, sponsorship shall be deemed to continue throughout the extension period and the sponsoring State or States shall continue to assume responsibility in accordance with articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention.

4. The fee for processing an application for extension of a contract for exploration shall be a fixed amount of $110,000 or its equivalent in a freely

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convertible currency, to be paid in full at the time of the submission of an application.[1]

5. If the administrative costs incurred by the Authority in processing an application are less than the fixed amount indicated in paragraph 4 above, the Authority shall refund the difference to the Contractor. If the administrative costs incurred by the Authority in processing an application are more than the fixed amount indicated in paragraph 4 above, the Contractor shall pay the difference to the Authority, provided that any additional amount to be paid by the Contractor shall not exceed 10 per cent of the fixed fee referred to in paragraph 4.

6. Taking into account any criteria established for this purpose by the Finance Committee, the Secretary-General shall determine the amount of such differences as indicated in paragraph 5 above and notify the Contractor of the amount. The notification shall include a statement of the expenditure incurred by the Authority. The amount due shall be paid by the Contractor or reimbursed by the Authority within three months of the final decision by the Council in respect of the application.

II. Processing of an application for extension of a contract for exploration

7. The Secretary-General shall:

(a) Acknowledge in writing the receipt of every application for extension of a contract for exploration, specifying the date of receipt;

(b) Notify the sponsoring State or States of the receipt of the application and of the requirement set out in paragraph 3 above;

(c) Place the application, together with the attachments and annexes thereto, in safe custody and ensure the confidentiality of all confidential data and information contained in the application;

(d) Notify the members of the Authority of the receipt of such application and circulate to them information of a general nature which is not confidential regarding the application;

(e) Notify the members of the Legal and Technical Commission and place consideration of the application as an item on the agenda for the next meeting of the Commission.

[1] The processing fee of $110,000 is based on a provisional estimate provided by the Office of Administration and Management. Any decision by the Council to impose a processing fee based on the principle of cost recovery has financial and budgetary implications insofar as it relates to the financial management and internal financial administration of the Authority. Pursuant to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, any such decision must be based on the recommendations of the Finance Committee. Accordingly, the Legal and Technical Commission requested the Secretary-General to refer this matter to the Finance Committee, in accordance with its rules of procedure.

III. Consideration by the Legal and Technical Commission

8. The Commission shall consider applications for extensions of contracts for exploration expeditiously and in the order in which they are received.

9. The Commission shall consider and review the data and information provided by the Contractor in connection with the application for extension of the contract for exploration. For the purposes of the review, the Commission may request the Contractor to submit such additional data and information as may be necessary regarding the implementation of the plan of work and compliance with the standard clauses of the contract.

10. In discharging its duties, the Commission shall apply the present procedures and criteria and the rules, regulations for the specific mineral resource and procedures of the Authority in a uniform and non-discriminatory manner.

11. If the Commission finds that an application for extension of a contract for exploration does not comply with these procedures, or the Contractor fails to provide data and information requested by the Commission, it shall notify the Contractor in writing, through the Secretary-General, indicating the reasons. The Contractor may, within 45 days of such notification, amend its application. If the Commission, after further consideration, is of the view that it should not recommend approval of the application for extension of the contract for exploration, it shall so inform the Contractor, through the Secretary-General, and provide the Contractor with a further opportunity to make representations within 30 days. The Commission shall consider any such representations made by the Contractor in preparing its report and recommendation to the Council.

12. The Commission shall recommend approval of the application for extension of the contract for exploration if it considers that the Contractor has made efforts in good faith to comply with the requirements of the contract for exploration but, for reasons beyond the Contractor's control, has been unable to complete the necessary preparatory work for proceeding to the exploitation stage, or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

13. The Commission shall submit its report and recommendations to the Council at the first possible opportunity, taking into account the schedule of meetings of the Authority.

IV. Consideration by the Council

14. The Council shall consider the reports and recommendations of the Commission relating to applications for extension of approved plans of work for exploration in accordance with paragraphs 11 and 12 of section 3 of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

15. Upon approval by the Council, a contract shall be extended by the execution by the Secretary-General and the authorized representative of the Contractor of an agreement in the form set out in annex II to the present document. The terms and conditions applicable to the contract during the extension period shall be the terms

and conditions in force as at the date of the extension, pursuant to the relevant regulations.[2]

V. Transitional provision

16. In the event that an application for extension of a contract has been duly submitted in accordance with the present procedures, but the contract would otherwise expire on a date after the next scheduled meeting of the Legal and Technical Commission but prior to the next scheduled meeting of the Council, the contract and all rights and obligations under the contract shall be deemed to be extended until such time as the Council is able to meet and approve the report and recommendations issued by the Commission in respect of that contract. In no case shall the application of the present provision result in the extension of the contract beyond a period of five years, or such shorter period as may have been requested by the Contractor, from the date on which the contract would otherwise have expired had it not been extended in accordance with these procedures.

[2] Except where otherwise indicated, references to "the Regulations" are to be read as collective references to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (ISBA/19/C/17, annex), the Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area (ISBA/16/A/12/Rev.1) and the Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese Crusts in the Area (ISBA/18/A/11).

Annex I

Information to be contained in an application for extension of a contract for exploration

1. An application for extension of a contract for exploration shall consist of the following:

(a) A statement by the Contractor of the grounds upon which an extension of the contract for exploration is sought. Such statement shall state the duration of the extension sought (up to five years) and shall include either:

(i) Particulars of the reasons beyond the Contractor's control that have rendered it unable to complete the necessary preparatory work for proceeding to the exploitation stage; or

(ii) An explanation of the reasons why the prevailing economic circumstances do not justify proceeding to the exploitation stage, including an explanation as to whether the economic circumstances in question refer to global market conditions in general or to a feasibility assessment regarding the Contractor's own project;

(b) A detailed summary of the work carried out by the Contractor during the entire period of the contract to date and the results obtained measured against the approved plan of work for exploration. Such summary shall include:

(i) An estimation of mineral resources and/or reserves according to the reporting standards for the specific mineral resources as established by the Authority,[a] and their spatial distribution within the exploration area;

(ii) A table summarizing all environmental baseline data collected in relation to the environmental variables listed in the relevant recommendations for the guidance of contractors;[b]

(iii) A complete list of all reports submitted to the Authority pursuant to the contract for exploration;

(iv) A complete inventory of all data and information submitted to the Authority pursuant to the contract for exploration;

(v) All data that have been requested by the Authority following the review of annual reports pursuant to the contract for exploration or that otherwise should have been submitted to the Authority pursuant to the contract, and that have not yet been supplied or have not been supplied in the format requested by or acceptable to the Authority;

(vi) A breakdown of expenditure pursuant to the contract for exploration, in accordance with the relevant recommendations for the guidance of contractors issued by the Legal and Technical Commission pursuant to the Regulations,[c]

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[a] Draft recommendations for guidance on reporting standards were considered by the Commission at its meeting in February 2015. The draft will be taken up for further consideration, with a view to adoption, at the meeting of the Commission in July 2015.

[b] ISBA/19/LTC/8.

[c] ISBA/21/LTC/11.

and identifying any deviation from the anticipated yearly expenditures during the period of the contract;

(vii) A summary of training provided pursuant to the contract for exploration;

(c) A description and a schedule of the proposed exploration programme during the extension period, including a detailed programme of activities, showing any proposed modifications or additions to the approved plan of work for exploration under the contract, and a statement that during the extension period the Contractor will complete the necessary preparatory work for proceeding to the exploitation stage;

(d) Details of any proposed relinquishment of any part of the exploration area during the extension period, as may be necessary;

(e) A schedule of anticipated yearly expenditures in respect of the programme of activities for the extension period;

(f) A proposed training programme for the extension period in accordance with the relevant recommendations for the guidance of contractors issued by the Legal and Technical Commission pursuant to the Regulations.[d]

2. All data and information submitted in connection with the application for extension of the contract for exploration shall be submitted in hard copy and in a digital format specified by the Authority.

[d] ISBA/19/LTC/14.

Annex II

Agreement between the International Seabed Authority and [Contractor] concerning the extension of the Contract for Exploration for [mineral resource] between the International Seabed Authority and [Contractor], dated [date]

The International Seabed Authority, represented by its Secretary-General (hereinafter referred to as "the Authority"), and [Contractor], represented by [...] (hereinafter referred to as "the Contractor"), agree that the Contract for Exploration for [mineral resource] between the Authority and the Contractor signed on [date] at [place] for a period of 15 years from [date of entry into force of original contract], together with related annexes, is extended for a period of [...] years to [date], subject to the following amendments.

1. Schedule 2 of the Contract shall be replaced by the programme of activities attached to this agreement as annex I.

2. Schedule 3 of the Contract shall be replaced by the training programme attached to this agreement as annex II.

3. The standard clauses referred to in operative paragraph 1 of the Contract shall be replaced by the standard clauses attached to this agreement as annex III,[a] which shall be incorporated into the Contract and shall have effect as if set out therein at length.

Subject to the above amendments, the Contract shall continue in all other respects with full force and effect. This amendment will enter into force on [date].

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by the respective parties, have signed this agreement at [place] this [date].

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[a] In relation to the contracts due to expire in 2016 and 2017, this is a reference to annex IV to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, adopted by the Council on 22 July 2013 (ISBA/19/C/17, annex), as amended by ISBA/19/A/12.